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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,674	07/28/2003	James M. Bell	5486A	7110
25280	7590	03/16/2007	EXAMINER	
MILLIKEN & COMPANY PO BOX 1926 SPARTANBURG, SC 29303			ARAQUE JR, GERARDO	
			ART UNIT	PAPER NUMBER
			3629	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/16/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/628,674	BELL, JAMES M.
	<b>Examiner</b>	<b>Art Unit</b>
	Gerardo Araque Jr.	3629

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

WHENEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 23 July 2003.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-22 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/16/05.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

### ***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. **Claim 11** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. The term "**sufficient**" in **claim 11** is a relative term which renders the claim indefinite. The term "**sufficient**" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. How many more additional tiles should be provided? Should it be an extra box or two or more? Should it be a percentage of the total tiles needed?

### ***Important Notice Regarding Rejection***

5. The examiner has provided the Italian version of the reference dating back to 09/04/2001. However, the translation link is not working correctly for the 09/04/2001 document and the translation provided by Google, also provided for pages 1 and 2,

does not provide a great translation. Therefore, the examiner has provided the web page dating back to 4/12/2003, which discloses the same invention in Italian along with its English version. All later dated web pages disclose the same information found in the 2001 web pages along with additional information. The additional information which is not being relied on by the examiner.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1, 3, 9, 11, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Ontario Tile Setters [OTS]**

(<http://web.archive.org/web/20010408051734/http://www.ontariotile.com/otscalculator1.html>).

8. In regards to **claim 1**, OTS discloses a computer-aided process of calculating the number of carpet tiles required for an installation project comprising the steps of:

providing the dimensions of a carpet tile (**see webpage provided**);

inputting the dimensions of a room floor length and a room floor width (**see webpage provided**); and

calculating the total number of carpet tiles needed (**see webpage provided**).

9. In regards to **claim 3**, OTS discloses further comprising the step of calculating the dimensions of a border region to be covered by fractional tile segments, wherein

said fractional tile segments are included in the calculation of the total number of carpet tiles needed (**see webpage provided**).

10. In regards to **claim 9**, OTS discloses wherein said carpet tile dimensions further define rectangular carpet tiles (**see webpage provided**).

11. In regards to **claim 11**, OTS discloses wherein said step of determining the total number of carpet tiles needed additionally includes adding a sufficient number of additional tiles so as to include a calculated number of replacement tiles within said total number of carpet tiles (**see webpage provided-10%**).

12. In regards to **claim 23**, OTS discloses an internet-based system for use in calculating the number of carpet tiles required for an installation project, the system comprising:

a registry holding dimensions of at least one carpet tile construction (**see webpage provided**);

an input screen for entry of the dimensions of a room floor length and a room floor width by a remote user (**see webpage provided**); and

a programmed processor adapted to calculate the total number of carpet tiles needed (**see webpage provided**).

#### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 2, 4, 8, and 10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ontario Tile Setters [OTS]**

(<http://web.archive.org/web/20010408051734/http://www.ontariotile.com/otscalculator1.html>).

15. In regards to **claim 2**, **OTS** fails to disclose wherein the carpet tiles are non-rectangular.

However, it is old and well known that tiles come in various shapes and sizes, which would ultimately require a different formula to calculate the needed tiles. **OTS** already discloses that its online calculator is capable of calculating the total amount of tiles needed given more than one shape size. It would have been obvious to one skilled in the art to modify the calculator to include other tile shapes.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **OTS** to contain several formulas to correspond to different shape tile pieces for consumers who may have an artistic taste.

16. In regards to **claim 4**, **OTS** fails to disclose further comprising determining the number of boxes of carpet tiles needed to provide at least the total number of carpet tiles.

However, when buying more than one tile it is old and well known to sell them in boxes. Depending from whom the consumer is purchasing the tile from would depend on how many boxes would be needed. That is to say, one company may sell tiles in boxes of 20 while others would sell them in boxes of 15.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify OTS to include an option of allowing a consumer to select the brand and company from where the tiles would be purchased in order to accurately determine how many boxes would be needed.

17. In regards to **claim 8**, it is old and well known for having at least one protrusion on one edge of the tile and at least one corresponding indentation on an opposing edge of the carpet tile.

18. In regards to **claim 10**, the type of tile does not affect how the invention is carried out. Whether it would be a carpet tile, ceramic tile, etc. the amount of tiles needed does not change.

19. **Claims 5 – 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over

**Ontario Tile Setters [OTS]**

(<http://web.archive.org/web/20010408051734/http://www.ontariotile.com/otscalculator1.html>) in view of **OmniDATA**

(<http://web.archive.org/web/20030412115620/http://www.omnidata.it/layout0001.asp?name=tilenet&lang=en>).

20. In regards to **claim 5**, OTS fails to disclose further comprising calculating at least one starting tile placement location for said room dimensions.

However, **OmniDATA** discloses a computer program for the planning of various decorative layouts. **OmniDATA** further discloses that it can perform various functions to aid the consumer in properly planning out the placement of the tiles. Further still, it would have also been obvious to one skilled in the art of tiling that when laying out

decorative tiles with a main centerpiece, that is to say the main design, would need to be placed down first in order to properly space the rest of the tiles.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify OTS in view of the teachings of OmniDATA to further include a starting tile placement location as part of their installation process instructions.

21. In regards to **claim 6**, OmniDATA discloses further comprising displaying a location of said at least one starting tile placement location within a scale drawing of said room (**see provided web pages and argument for claim 5**).

22. In regards to **claim 7**, OmniDATA discloses further comprising displaying the position for the remaining carpet tiles within said scale drawing of said room (**see provided web pages**).

23. **Claims 12 – 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over OmniDATA

(<http://web.archive.org/web/20030412115620/http://www.omnidata.it/layout0001.asp?name=tilenet&lang=en>) in view of **Ontario Tile Setters [OTS]**

(<http://web.archive.org/web/20010408051734/http://www.ontariotile.com/otscalculator1.html>).

24. In regards to **claim 12**, OmniDATA discloses a process of providing customized instructions for installation of a carpet tile product comprising the steps of: calculating an anchor point location for placement of an initial tile (**see provided web pages**);

such that when said initial tile is placed at said anchor point, placement of additional carpet tiles is carried out such that a predefined minimum tile width is maintained throughout the installation (**see provided web pages; further still it would have also been obvious to one skilled in the art of tiling that when laying out decorative tiles with a main centerpiece, that is to say the main design, would need to be placed down first in order to properly space the rest of the tiles**). Moreover, the type of tile does not affect how the invention is carried out. Whether it would be a carpet tile, ceramic tile, etc. the amount of tiles needed does not change.

However, **OmniDATA** fails to explicitly disclose:

providing dimensions of a selected carpet tile product;

providing dimensions of a length and a width of an installation area;

**OTS**, however, discloses an online calculator for determining the amount of tiles needed for a given amount of floor space. It is old and well known the before an individual decides to being laying down tiles on a floor, one must know how many tiles should be purchased in order to prevent coming short or having too many. Moreover, the type of tile does not affect how the invention is carried out. Whether it would be a carpet tile, ceramic tile, etc. the amount of tiles needed does not change.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **OmniDATA** in view of the teachings of **OTS** to include a tile calculator in order to properly determine how many tiles would be needed for a given floor space in order to not fall short or have too many lying around.

25. In regards to **claim 13**, OmniDATA discloses wherein said step of calculating an anchor point location additionally includes providing a visual display of said anchor point within a scaled diagram of said installation area (**see provided web pages**).
26. In regards to **claim 14**, OmniDATA discloses wherein said visual display of said anchor point additionally includes a display of locations for a plurality of core carpet tiles (**see provided web pages**).
27. In regards to **claim 15**, OmniDATA discloses wherein said visual display of said anchor point additionally includes a display of locations for a plurality of border carpet tiles (**see page 1 of provided web pages**).
28. In regards to **claim 16**, OmniDATA discloses wherein said step of calculating an anchor point location includes providing distance coordinates relative to a length edge and width edge of said installation area (**see page 1 of provided web pages**).
29. In regards to **claim 17**, OmniDATA discloses wherein said carpet tile product defines a plurality of carpet tiles, each said tile having at least one protrusion on one edge of the carpet tile and at least one corresponding indentation on an opposing edge of the carpet tile (**see page 2 of provided web pages**).
30. In regards to **claim 18**, OmniDATA discloses wherein said carpet tile products further define a plurality of rectangular carpet tiles (**see page 1 of provided web pages**).
31. In regards to **claim 19**, the type of tile does not affect how the invention is carried out. Whether it would be a carpet tile, ceramic tile, etc. the amount of tiles needed does not change.

32. In regards to **claim 20**, **OmniDATA** discloses further including use of an identifier to indicate border carpet tiles, which are to be split and used on opposite sides of said installation area (**see page 1 of provided web pages**).

33. In regards to **claim 21**, **OTS** discloses wherein the process includes the additional step of determining the total number of carpet tiles needed to cover said installation area (**see page 1 of provided web pages**).

34. In regards to **claim 22**, **OmniDATA** discloses a computer-aided method of calculating the number of carpet tiles required for an installation project comprising the steps of:

calculating at least one starting tile placement location for said room dimensions (**see provided web pages**);

displaying a location of said at least one starting tile placement location within a scale drawing of said room (**see provided web pages**);

displaying the position for the remaining core carpet tiles within said scale drawing of said room (**see provided web pages**); and,

displaying the position of the tiles for said border region (**see provided web pages**).

However, **OmniDATA** fails to explicitly disclose:

inputting the dimensions of a room floor length and a room floor width;

calculating the number of core carpet tiles needed;

calculating the dimensions of a border region;

calculating the number of carpet tiles needed to cover the border region;

determining the total number of carpet tiles needed;

OTS, however, discloses an online calculator for determining the amount of tiles needed for a given amount of floor space. It is old and well known the before an individual decides to being laying down tiles on a floor, one must know how many tiles should be purchased in order to prevent coming short or having too many. Moreover, the type of tile does not affect how the invention is carried out. Whether it would be a carpet tile, ceramic tile, etc. the amount of tiles needed does not change. Further still, it is old and well known that tiles come in various shapes and sizes, which would ultimately require a different formula to calculate the needed tiles. OTS already discloses that its online calculator is capable of calculating the total amount of tiles needed given more than one shape size. It would have been obvious to one skilled in the art to modify the calculator to include other tile shapes.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify OmniDATA in view of the teachings of OTS to include a tile calculator in order to properly determine how many tiles would be needed for a given floor space in order to not fall short or have too many lying around.

### ***Conclusion***

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure can be found in PTO-892 Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is

(571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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2/26/07

  
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